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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,157

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466 7590 02/13/2008
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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

02/13/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,157

Applicant(s)

CONGIU ET AL. CT

Examiner

/Stephen J. Castellano/

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 2,3 and 10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1-4-05</u> . | 6) <input type="checkbox"/> Other: ____. |

The information disclosure statement filed January 4, 2005 fails to fully comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Perhaps the International Search Authority should have forwarded copies of the foreign patent documents. However, this is not the case as a review of the image file wrapper doesn't reveal any foreign references. The examiner made a telephone request with applicant. Applicant faxed several foreign references. However, British reference UK 2154428 was not received at all. German references DE 7202617 and DE 7040940 were received incomplete without patent images and with only the Abstract. Therefore, these three foreign references have been lined through to denote that they have not been considered.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the elements of a claim must be disclosed in a single specie. All the elements of claims 2 and 3 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must

be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claims 2, 3 and 10 are objected to because all of the elements of these claims are not from a single specie.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claims 2-4 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the elements of several different species as the elements of claim 2 are from more than a single figure. For example, Fig. 1, 2 and 4 disclose groove 1; Fig. 5, 6, 8 and 9 disclose a seat 17 for plate 12; Fig. 10, 11, 13 and 14 disclose groove 21; Fig. 19 discloses seat 25; Fig. 15 and 19 disclose seat 26; Fig. 20-23 disclose groove 29, seat of plate 12; and Fig. 24-27 disclose groove 31 for plate 12. Everyone of these grooves or seats accomplish the same

basic task of retaining food directly or receiving a plate of food. However, these grooves or seats are not all contained in the same embodiment or specie and each represents a separate entity having a different arrangement as shown by the different size, shape and number of these groove or seat elements. Applicant is not allowed to claim the particular and distinct elements of more than a single specie in one claim. Claim 2 has elements from at least six or seven different species. Claim 2 is indefinite because it has structure from more than a single claim.

Claim 3 recites the elements of at least two different species as the elements of claim 2 are from more than a single figure. For example, Fig. 28 discloses tongue 32 and hole 33; and Fig. 31 discloses outer edge 41. Claim 3 is similarly rejected as claim 2.

Claims 4 and 10 are more of a classic example of an omnibus type claim based on the type of language that is so broad that it could include any of the structure disclosed.

Claims 4 and 10 fail to further limit the claim language because they are too broad and do not specify structure.

For the reasons established above, claims 2, 3 and 10 are not well enough understood to decipher their metes and bounds and claims 2, 3 and 10 will not be treated according to their merits with an art rejection.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by UK reference No. GB 2154428 to Bell (Bell).

Bell discloses a bearing device grasped by the hand and capable of holding food and beverage comprising a plurality of cavities 10, a passing through shape 2, 2a, and housings 6, 7, 9.

Re materials, see page 1, line 60-65 for disclosure of plastic, metal, wood and paper. Plastic would provide a watertight bottom.

Re bottomless, see Fig. 2 (underside view in perspective) and the hollowed bottom and the lack of a planar bottom support surface that substantially closes the recessed underside.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Stephen J. Castellano/ whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J. Castellano/
Primary Examiner
Art Unit 3781

sjc